

# EXHIBIT D

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

**If You Purchased or Paid for REMICADE, A Class Action Settlement Could Affect You**

*A federal court authorized this notice. This is not a solicitation from a lawyer.*

**INFORMATION REGARDING CLASS ACTION SETTLEMENT**

A proposed \$25,000,000 Settlement has been reached in a class action lawsuit on behalf of consumers and health insurers regarding the prescription drug Remicade. The class action lawsuit (*In re Remicade Antitrust Litigation*, No. 2:17-cv-04326-KSM) claims that Defendants Johnson & Johnson and Janssen Biotech, Inc. violated federal and state antitrust and consumer-protection laws by taking action to block competition by new entrants in the infliximab market. Defendants deny any wrongdoing. The Court has not decided who is right.

The Court has preliminarily approved the proposed Settlement described in this Notice. To resolve the claims, the proposed Settlement will provide for \$25,000,000 to be paid by Defendants. As discussed below, Attorneys' Fees and Expenses and Service Awards may be deducted from this amount, with Court approval.

The Court has scheduled a hearing to decide whether to approve the Settlement, the plan for allocating the Settlement Fund to Settlement Class Members, and any requests by the attorneys for reimbursement of expenses out of the Settlement Fund, payment of Service Awards to the Named Plaintiffs, with Court approval (the "Fairness Hearing"). The Fairness Hearing is scheduled for **MONTH DAY, 2022**, at \_\_\_ EST, before Judge Marston at the United States District Court for the Eastern District of Pennsylvania, James A. Byrne U.S. Courthouse, 601 Market Street, Philadelphia, PA 19106. The time and date of the Fairness Hearing may change without additional mailed Notice. For updated information on the Fairness Hearing, check [www.RemicadeSettlement.com](http://www.RemicadeSettlement.com).

***Who Is Included?***

**The Settlement Class is defined as follows:**

- All persons and entities in the United States and its territories who indirectly purchased, paid and/or provided reimbursement for some or all of the purchase price of Defendants' infliximab (Remicade) from April 5, 2016 through February 28, 2022 (the "Class Period").
- The following groups are excluded from the Class: (a) Defendants, their officers, directors, management, employees, subsidiaries and affiliates; (b) all federal and state governmental entities except for cities, towns or municipalities with self-funded prescription drug plans; (c) all persons or entities who purchased Defendants' infliximab (Remicade) for purposes of resale or who purchased infliximab directly from Defendants; (d) fully insured health plans (*i.e.*, health plans that purchased insurance covering 100% of their reimbursement obligation to members); (e) any "flat co-pay" consumers whose purchases of Defendants' infliximab (Remicade) were paid in part by a third-party payor and whose co-payment was the same regardless of the retail purchase price; (f) pharmacy benefit managers; (g) any judges or justices involved in this action and any members of their immediate families; and

(h) any providers (including but not limited to hospitals, clinics, and physicians) who purchase Remicade and are later reimbursed for the provision of Remicade.

***What Does The Class Action Settlement Provide?***

Defendants will pay \$25,000,000 into a Settlement Fund to settle all claims in the lawsuit brought on behalf of consumers and health insurers (known as third-party payors). The Settlement Fund will be distributed pursuant to a Plan of Allocation and Distribution, the latest version of which can be reviewed at [www.RemicadeSettlement.com](http://www.RemicadeSettlement.com).

Class Counsel will ask the Court to award attorneys' fees in an amount not to exceed one-third of the Settlement Fund, plus interest, litigation expenses and Service Award payments to the Named Plaintiffs National Employees Health Plan and Local 295 IBT Employer Group Welfare Fund. After these deductions, the remainder of the Settlement Fund (the "Net Settlement Fund") will be distributed to Class Members who file a valid Claim Form, based on where they purchased and/or paid for Remicade, as described below. The precise amount that you might receive from the Net Settlement Fund will depend on how much you (and other Class Members) indirectly paid or reimbursed for Remicade.

The Plan of Allocation and Distribution provides for distribution of the Settlement Fund as follows:

- The Settlement Administrator will first calculate the Net Settlement Fund amount by subtracting any court-approved award of attorneys' fees and expenses, service awards, settlement administrators' costs, taxes and tax expenses, and any other Court-approved deductions from the total Settlement Fund of \$25 million.
- The Net Settlement Fund amount will be shared by all Class Members. Each Class Member's claim on the Settlement Fund will be determined under only one of the three categories below, based on whether the Class Member resides or has a principal place of business in a Selected State and whether the Class Member made purchases of, or reimbursements for, Remicade in a Selected State.<sup>1</sup> Each Class Member's claim will be used by the Settlement Administrator to calculate that Class Member's percentage share of the Net Settlement Fund.
  - Class Members who reside or have their principal place of business in a Selected State will have a claim on the Net Settlement Fund equal to that Class Member's total Remicade purchases and reimbursements.
  - Class Members who do not reside or have their principal place of business in a Selected State, but who did purchase or reimburse for Remicade in one or more of the Selected States, will have a claim on the Net Settlement Fund equal to the sum

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<sup>1</sup> The Selected States are Arizona, Arkansas, California, District of Columbia, Florida, Hawaii, Iowa, Kansas, Maine, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Dakota, Tennessee, Utah, Vermont, West Virginia and Wisconsin.

of that Class Member's total Remicade purchases and reimbursements in the Selected States, plus 1% of that Class Member's total Remicade purchases and reimbursements outside of those states.

- Class Members who do not reside or have their principal place of business in a Selected State and who did not purchase or reimburse for Remicade in any of the Selected States, will have a claim on the Net Settlement Fund equal to 1% of that Class Member's total Remicade purchases and reimbursements.
- Each Class Member's payment from the Net Settlement Fund will be determined as follows:

(Net Settlement Fund Amount)  $\times$  (Class Member's Claim on the Net Settlement Fund)

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(Sum of all Class Members' Claims on the Net Settlement Fund)

The Plan of Allocation and Distribution is subject to change until the Court approves it. To view the most current version of the Plan of Allocation and Distribution, visit [www.RemicadeSettlement.com](http://www.RemicadeSettlement.com).

### YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

<p><b>PARTICIPATE IN THE SETTLEMENT BY COMPLETING AND RETURNING A CLAIM FORM WHEN YOU RECEIVE ONE</b></p>	<p>You do not need to do anything now to retain your right to stay in the Settlement Class and/or seek a share of the proposed Settlement. If the Court decides to give the proposed Settlement final approval and you are a Settlement Class Member, then you will need to complete, sign and return a Claim Form in order to be eligible to obtain a share of the proposed Settlement.</p> <p>If you received a Notice in the mail, a Claim Form will be mailed to you at a later date. You may be asked to provide data showing your eligible purchases.</p> <p>If you <b><u>did not</u></b> receive a Notice in the mail and you think you are a potential Settlement Class Member, please identify yourself by letter or email to the following address: <i>In re Remicade Antitrust Litigation</i>, Settlement Administrator, c/o Gilardi &amp; Co., LLC, P.O. Box 43324, Providence, RI 02940-3324 or contact <a href="mailto:info@RemicadeSettlement.com">info@RemicadeSettlement.com</a>.</p> <p>You will be asked to provide information or data proving that you are a member of the Settlement Class. You also may be asked to provide data showing your eligible purchases.</p>
<p><b>EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS</b></p>	<p>You may choose to exclude yourself, or "opt-out," from the Settlement Class if you believe you are a member of the Settlement Class. If you decide to exclude yourself, you will not be bound by any decision in this lawsuit relating to Defendants.</p>

	This is the only option that allows you to ever be part of any lawsuit (other than this lawsuit) against Defendants relating to the legal claims against Defendants in this case.
<b>STAY IN THE LAWSUIT BUT OBJECT TO THE SETTLEMENT</b>	If you object to all or any part of the proposed Settlement, you may write to the Court about why you do not like the proposed Settlement. You may only object to the proposed Settlement if you have not excluded yourself from the Settlement Class.
<b>GET MORE INFORMATION</b>	If you would like to get more information about the case or the Settlement, you can send questions to the lawyers or the Settlement Administrator identified in this Notice and/or ask to attend the Fairness Hearing where the Court will evaluate the proposed Settlement.

### ***How Do I Get A Payment?***

You must submit a Claim Form by **[DATE]** to be eligible for a payment. If the Court grants final approval to the Settlement and any resulting appeals are resolved, the Court will approve a Plan of Allocation and Distribution to distribute the Settlement Fund.

If you do not exclude yourself from the Settlement Class, you will need to submit a Claim Form to request your share of the Net Settlement Fund.

- If you received this Notice in the mail, a Claim Form will be sent to you automatically and you do not need to do anything at this time to be eligible to receive a payment from the Settlement. However, you may be required to submit data showing your purchases of Remicade or payments for Remicade.
- If you did not receive this Notice in the mail, and you think you are a potential Settlement Class Member, please identify yourself by letter or email to the following address: *In re Remicade Antitrust Litigation*, c/o Settlement Administrator, c/o Gilardi & Co., LLC, P.O. Box 43324, Providence, RI 02940-3324. You must also include proof that you purchased or paid for Remicade during the Class Period, **April 5, 2016 through February 28, 2022**. You may also be required to submit your purchase or payment information showing your eligible purchases or payments. A copy of the Claim Form will also be available at [www.RemicadeSettlement.com](http://www.RemicadeSettlement.com).
- When and whether you get your payment depends on several matters, including whether and when the Court grants final approval of the Settlement. The Net Settlement Fund will be allocated to Settlement Class Members as soon as possible after the Court grants final approval of the Settlement. If the proposed Settlement is given final approval, but there is an appeal of the final approval, the appeal could take several years to resolve. Any accrued interest on the Settlement Fund will be included, *pro rata*, in the amount paid to Settlement Class Members.

### ***What Are My Other Rights?***

If you are a member of the Settlement Class and you do not want to be legally bound by the Settlement, you must exclude yourself. The exclusion deadline is **[DATE]**. If you do not exclude

yourself, you will not be able to sue the Defendants for any claim relating to the lawsuit. If you do not exclude yourself from the Settlement Class, you may object to the Settlement by **[DATE]**.

To exclude yourself from the Settlement Class: You must send a letter via first-class U.S. mail saying you want to exclude yourself from the Settlement Class in the case *In re Remicade Antitrust Litigation*. Mail the letter to: *In re Remicade Antitrust Litigation*, Settlement Administrator, c/o Gilardi & Co., LLC, P.O. Box 43324, Providence, RI 02940-3324. Be sure to include your name, address, email address, telephone number, and your signature. Your letter requesting exclusion must be postmarked no later than **[DATE]**.

To object to the Settlement: If you are a Settlement Class Member and you have not excluded yourself from the Settlement Class, you can object to all or any part of the proposed Settlement and/or any application for attorneys' fees, for reimbursement of costs and expenses, and/or Service Awards to the Named Plaintiffs. You can give reasons why you think the Court should not approve it, and the Court will consider your views.

To object to the proposed Settlement, you must send a letter via first-class U.S. mail saying that you object to the Settlement in *In re Remicade Antitrust Litigation*, No. 2:17-cv-04326-KSM (E.D. Pa.), with the following information:

- (a) your name, address, and any attorney representing you;
- (b) the legal or factual basis for your objection;
- (c) documentation sufficient to prove your membership in the Settlement Class (such as evidence of your Remicade purchases or payments);
- (d) a list of any witnesses, exhibits, or legal authority that you intend to offer;
- (e) whether you intend to appear, either in person or through counsel, at the Fairness Hearing;
- (f) whether your objection applies only to yourself, to a subset of the Class, or to the Class as a whole; and
- (g) a list of all class action settlements to which you and/or your counsel have previously objected.

Mail any objections to the Clerk of the United States District Court for the Eastern District of Pennsylvania, James A. Byrne U.S. Courthouse, 601 Market Street, Philadelphia, PA 19106 with a copy to Alexandra S. Bernay, Robbins Geller Rudman & Dowd LLP, 655 West Broadway, Suite 1900, San Diego, CA 92101.

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter via first-class U.S. mail saying that it is your "Notice of Intention to Appear in *In re Remicade Antitrust Litigation*, No. 2:17-cv-04326-KSM (E.D. Pa.)." Be sure to include your name, address, email address, telephone number, and your signature. Your Notice of Intention to Appear must be postmarked no later than **[DATE]** and must be sent to the Clerk of the Court, to Class Counsel, and to Defendants' Counsel at the addresses listed below. You may not speak at the Fairness Hearing if you have excluded yourself as a Settlement Class Member or if you do not send a Notice of Intention to Appear.

***The Lawyers Representing the Class***

The Court has appointed Robbins Geller Rudman & Dowd LLP as Class Counsel. You may contact the following lawyer regarding questions: Alexandra S. Bernay, Robbins Geller Rudman & Dowd LLP, 655 West Broadway, Suite 1900 San Diego, CA 92101 or xanb@rgrdlaw.com.

***The Lawyers for the Defendants***

Defendants are represented by: William F. Cavanaugh, Jr. and Stephanie Teplin, Patterson Belknap Webb & Tyler LLP, 1133 Avenue of the Americas, New York, NY 10036-6710 or wfcavanaugh@pbwt.com and steplin@pbwt.com.

***If You Want More Information***

If you have questions about this case or want additional information, you may call or write to the lawyer representing the Class, listed above; call 1-888-859-1912; or visit [www.RemicadeSettlement.com](http://www.RemicadeSettlement.com). This Notice is only a summary of the proposed Settlement and is qualified in its entirety by the terms of the Settlement Agreement. Copies of the Settlement Agreement are on public file with the United States District Court for the Eastern District of Pennsylvania, James A. Byrne U.S. Courthouse, 601 Market Street, Philadelphia, PA 19106. The Settlement Agreement is also available on the Settlement website: [www.RemicadeSettlement.com](http://www.RemicadeSettlement.com). You may also call the Settlement Administrator at 1-888-859-1912 with questions.

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S  
OFFICE TO INQUIRE ABOUT THE SETTLEMENT OR THE CLAIMS PROCESS**

**FOR MORE INFORMATION AND A CLAIM FORM:  
CALL: 1-888-859-1912 OR VISIT [WWW.REMICADESETTLEMENT.COM](http://WWW.REMICADESETTLEMENT.COM).**